

1 JAMES E SMYTH II
Nevada Bar No. 6506
2 LESLEY B. MILLER
Nevada Bar No. 7987
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7

8 *Attorneys for Plaintiff Grand Canal Shops II, LLC*

9
10 **UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

11 GRAND CANAL SHOPS II, LLC,

2:12-cv-00213-KJD -RJJ

12 Plaintiff,

13 vs.

14 RICCARDO IAVARONE; and DOES I
through X, inclusive,

15 Defendant.
16

17 **MOTION FOR REMAND**

18 COMES NOW, Plaintiff, by and through its attorneys, KAEMPFER CROWELL
19 RENSHAW GRONAUER & FIORENTINO, and hereby moves, pursuant to 28 U.S.C. 1447(c),
20 for remand of the above-entitled action.

21 ///

22 ///

23 ///

24 ///

KAEMPFER CROWELL RENSHAW
GRONAUER & FIORENTINO
8345 West Sunset Road
Suite 250
Las Vegas, Nevada 89113

1 DATED this 21st day of February, 2012.

2 KAEMPFER CROWELL RENSHAW
3 GRONAUER & FIORENTINO

4 BY: /s/ Lesley B. Miller

5 JAMES E SMYTH II (Nevada Bar No. 6506)
6 LESLEY B. MILLER (Nevada Bar No. 7987)
8345 West Sunset Road, Suite 250
Las Vegas, Nevada 89113
7 *Attorneys for Plaintiff*

8 **POINTS AND AUTHORITIES**

9 **I.**

10 **PROCEDURAL BACKGROUND INDICATES DEFENDANT'S NOTICE OF**
11 **REMOVAL IS NOT TIMELY**

12 Defendant Noticed his Removal based on subject matter jurisdiction pursuant to 28
13 U.S.C. 1332(a) and 27 U.S.C. 1441(b). *See Notice of Removal of Action at Exhibit 1, Page 2,*
14 *Paragraph 4.* Plaintiff, a corporate citizen of Illinois and New York, filed its Complaint on
15 November 9, 2011. *See Complaint at Exhibit 2.* The Complaint lists a single Defendant,
16 RICCARDO IAVARONE, a resident of New York, and brings causes of action for alter ego,
17 generally. The Complaint also sets forth that this matter's value exceeds the jurisdictional
18 minimum described in 28 U.S.C. § 1332 (a), (c):¹

19 The Complaint describes,

20 "On or about May 29, 2009, Plaintiff sent Lanciani a Notice of Default for Non-Payment
21 of Rent and Other Charges in the amount of \$79,685.47,..."

22 *See Paragraph 14, at Exhibit 2.*

23 ¹ In order for the federal court to obtain subject matter jurisdiction over this matter, diversity of
24 citizenship must be satisfied. Diversity of citizenship requires:

- 1) that the amount in controversy exceed \$75,000.00; and
- 2) that the action is between citizens of different states— i.e., no plaintiff can be a citizen of the same state as any defendant.

1 Thus, from the inception of this case, it was apparent that this matter was ripe for removal based
 2 on subject matter jurisdiction. Defendant noticed its removal on **February 10, 2012**. See
 3 Exhibit 1. Defendant Iavarone was served with the Summons and Complaint on **December 15,**
 4 **2011**. See *Filed Summons and Affidavit of Service of Process, attached hereto as Exhibit 3*. This
 5 evinces Defendant has petitioned for removal beyond the deadline prescribed by statute and this
 6 Motion for Remand should be granted, as:

7 "The petition for removal of a civil action ... *shall* be filed within thirty days after the
 8 receipt by the defendant... of a copy of the initial pleading setting forth the claim for
 relief." 28 U.S.C. § 1446 sub-section (b).

9 A timely Notice of Removal should have been filed no later than **January 14, 2012**. Defendant
 10 Iavarone's counsel was later served with a copy of the same Summons and Complaint on or
 11 about January 24, 2012. See *First Legal Run Slip to William Cooper, Esq. and signed*
 12 *Acceptance of Service by Counsel at Exhibit 4*. This, however, does not change the fact that
 13 Defendant Iavarone, "through service or otherwise," received a copy of the initial pleading
 14 setting forth the claim for relief upon which this action is based, as set forth in 28 U.S.C. 1446
 15 which governs the procedure for removal. Mr. Iavarone's notice of the claims against him on
 16 this initial date started time running for him to remove his case to federal court, not the
 17 subsequent courtesy service of the Complaint on counsel, which was made by Plaintiff in order
 18 that counsel file an answer on Defendant's behalf. Mr. Iavarone had notice of the Complaint on
 19 or about December 15, 2012, when he was served with the Complaint.

20 II.

21 LEGAL ARGUMENT

22 A. LEGAL AUTHORITY FOR MOTION FOR REMAND

23 Plaintiff brings this motion based on 28 U.S.C. § 1447(c), which provides in part:

24 A motion to remand the case on the basis of any defect other than lack of subject matter
 jurisdiction must be made within 30 days after the filing of the notice of removal under

section 1446(a) [28 USCS § 1446(a)]. If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded. An order remanding the case may require payment of just costs and any actual expenses, including attorney fees, incurred as a result of the removal.

Plaintiff has filed its Motion for Remand based in part on the fact that defects in removal procedure mandate remand.

B. THE FACTS ILLUSTRATE THAT DEFENDANT DID NOT PETITION TO REMOVE THE CASE BY THE 30-DAY REMOVAL DEADLINE AND REMOVAL IS DEFECTIVE

28 U.S.C. § 1446 sub-section (b) of the removal statute states:

“The notice of removal of a civil action or proceeding *shall be filed within thirty days after the receipt by the defendant, through service or otherwise*, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based, or within thirty days after the service of summons upon the defendant if such initial pleading has then been filed in court and is not required to be served on the defendant, whichever period is shorter.”

Removal is effectuated once a defendant files the notice of removal in federal court, gives notice to the parties of the removal, and files a copy of the notice with the clerk of the court from which the matter was removed. 28 U.S.C.S. § 1446(d).

The Summons and Complaint were “received by Defendant” on December 15, 2011. *See Affidavit of Service of Process of Summons and Complaint at Exhibit 3.* The case satisfied diversity jurisdiction by this date and, as such, Defendant was on notice that the time for removal began to run from December 15, 2010. The Complaint itself made it abundantly clear the diversity jurisdiction, by citizenship and by amount, existed. However, the Petition for Removal was not filed until February 10, 2012, and is not within the 30 days prescribed by statute.

C. REMOVAL JURISDICTION STATUTES SHOULD BE STRICTLY CONSTRUED AGAINST REMOVAL

The statutes conferring removal jurisdiction are to be construed strictly because removal jurisdiction encroaches on a state court's jurisdiction. *See Shamrock Oil & Gas Corp. v. Sheets*,

1 313 U.S. 100, 108-09, 85 L. Ed. 1214, 61 S. Ct. 868 (1941). Thus, in the interest of comity and
 2 federalism, federal jurisdiction should be exercised only when it is clearly established, and any
 3 ambiguity regarding the scope of § 1446(b) should be resolved in favor of remand to the state
 4 courts. See *Brierly v. Alusuisse Flexible Packaging, Inc.*, 184 F.3d 527, 534 (6th Cir. Ky. 1999).

5 The rightful independence and sovereignty of state governments require that the Federal
 6 Courts scrupulously confine their own jurisdiction within the precise limits which the statute has
 7 defined. *Shamrock Oil & Gas Corp. v. Sheets*, 313 U.S. 100, 61 S.Ct. 868, 85 L.Ed. 1214. Stated
 8 in another form, the concept is this: The removal of cases on the ground of diversity of
 9 citizenship for trial in a state court is in derogation of state sovereignty. Since removal pre-
 10 supposes that the state involved is incompetent or unwilling to provide an impartial forum.
 11 *Chicago, Rock Island & Pacific Ry. v. Martin*, 178 U.S. 245, 1.c. 248, 20 S.Ct. 854, 1.c. 855, 44
 12 L.Ed. 1055. 2

13 **D. THE COURT'S REMEDY IS REMAND**

14 If the federal court determines that removal was erroneous, the remedy is remand to the
 15 state court from which the case was originally removed. 28 U.S.C. § 1447(c). See also *Vasquez*
 16 *v. N. County Transit Dist.*, 292 F.3d 1049, 1060 (9th Cir. Cal. 2002).

17 **E. THE COURT MAY AWARD PLAINTIFF'S COSTS AND FEES**

18 28 USC 1446(a) imposes the requirements of FRCP 11 to notices of removal. Also, 28
 19 USC 1447(c) authorizes the district court, when remanding a case, to impose costs and actual
 20 expenses, including attorney's fees, where appropriate. Bad faith on the part of Defendant is not
 21 a prerequisite to an award pursuant to 1447(c). See e.g. *Garbie v. DaimlerChrysler Corp.*, 211
 22 F.3d 407 (7th Cir. Ill. 2000), holding that, 28 U.S.C.S. § 1447(c) is not a sanctions rule; it is a
 23 fee-shifting statute, entitling the district court to make whole the victorious party. An opponent's
 24 bad faith may strengthen the position of a party that obtained a remand, but it is not essential to

1 an award, any more than under the multitude of other fee-shifting statutes. See also *Balcorta v.*
2 *Twentieth Century-Fox Film Corp.*, 208 F.3d 1102, 1106 (9th Cir. Cal. 2000), holding that case
3 law does permit an award of fees when a defendant's removal, while "fairly supportable," was
4 wrong as a matter of law.

5 **III.**

6 **CONCLUSION**

7 Based on the foregoing, Plaintiff respectfully requests that this Court grant its Motion and
8 remand its case to State Court.

9 DATED this 21st day of February, 2012.

10 KAEMPFER CROWELL RENSHAW
11 GRONAUER & FIORENTINO

12 BY: /s/ Lesley B. Miller

13 JAMES E SMYTH II (Nevada Bar No. 6506)
14 LESLEY B. MILLER (Nevada Bar No. 7987)
8345 West Sunset Road, Suite 250
Las Vegas, Nevada 89113
15 *Attorneys for Plaintiff*

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22 KAEMPFER CROWELL RENSHAW
GRONAUER & FIORENTINO
8345 West Sunset Road
Suite 250
Las Vegas, Nevada 89113
23
24

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I hereby certify that service of the foregoing **MOTION FOR REMAND** was made this date by depositing a true copy of the same for mailing at Reno, Nevada, addressed to each of the following:

WILLIAM E. COOPER, ESQ.
601 East Bridger Avenue
Las Vegas, Nevada 89101
Attorney for Defendant

DATED this 21st day of February, 2012.

/s/ Elizabeth E. Helms
an employee of
Kaempfer Crowell Renshaw Gronauer & Fiorentino

Exhibit 1

Exhibit 1

1 William E. Cooper, Esq.
2 William E. Cooper Law Offices
3 Nevada State Bar No. 2213
4 601 E. Bridger Avenue
5 Las Vegas, Nevada 89101
6 (702) 382-5111

7 Attorney for Defendant,
8 Riccardo Iavarone

9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE DISTRICT OF NEVADA

11
12 GRAND CANAL SHOPS II, LLC, a
13 Delaware limited liability company,

14 Plaintiff,

15 vs.

16 RICCARDO IAVARONE; and DOES I
17 through X, inclusive,

18 Defendant.

**NOTICE OF REMOVAL OF ACTION
UNDER 28 U.S.C. §1441(b) (Diversity)**

19 TO: CLERK OF THE ABOVE-ENTITLED COURT:

20 PLEASE TAKE NOTICE that Defendant Riccardo Iavarone ("Iavarone") hereby removes
21 to this court the state court action described below.

22 1. On November 9, 2011, an action was commenced in the Eighth Judicial District Court
23 of the State of Nevada, in and for the County of Clark, entitled: *Grand Canal Shops II, LLC v.*
24 *Riccardo Iavarone*, Case No. A-11-651-462-C, Dept. No. XIX. A copy of the Complaint is attached
25 hereto as Exhibit 1.

26 2. The first date upon which Defendant Iavarone received service of the Summons and
27 Complaint was January 24, 2012. A copy of the Summons and Acceptance of Service is attached
28 hereto as Exhibit 2.

CERTIFICATE OF SERVICE

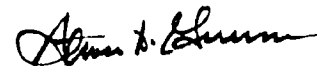
I hereby certify that a true and correct copy of the **NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. §1441(b) (Diversity)**, has been forwarded to the following parties on the 10th day of February, 2012.

Via Regular Mail
Lesley B. Miller
Kaempfer Crowell Renshaw
Gronauer & Fiorentino
8345 W. Sunset Road, Suite 250
Las Vegas, Nevada 89113

By: /s/ Diedre N. Hoffman
Diedre N. Hoffman, an employee
of William E. Cooper Law Offices

EXHIBIT 1

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CLERK OF THE COURT

COMP

JAMES E SMYTH II

Nevada Bar No. 6506

LESLEY B. MILLER

Nevada Bar No. 7987

ANTHONY J. CELESTE

Nevada Bar No. 8776

KAEMPFER CROWELL RENSHAW

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jismyth@kcnvlaw.com

Attorneys for Plaintiff Grand Canal Shops II, LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

GRAND CANAL SHOPS II, LLC, a Delaware
limited liability company,

Plaintiff,

vs.

RICCARDO IAVARONE; and DOES I
through X, inclusive,

Defendant.

Case No. A - 11 - 651462 - C

Dept. No. XIX

COMPLAINT

Plaintiff, GRAND CANAL SHOPS II, LLC ("Plaintiff"), by and through its attorneys,
Kaempfer Crowell Renshaw Gronauer & Fiorentino, for its Complaint against the above-named
Defendant, alleges as follows:

PARTIES

1. Plaintiff is, and at all times relevant herein was, a Foreign Limited-Liability
Company.

KAEMPFER CROWELL RENSHAW
GRONAUER & FIORENTINO
8345 West Sunset Road
Suite 250
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1 2. Upon information and belief, Defendant, RICCARDO IAVARONE
2 ("IAVARONE"), at all times relevant herein, was a resident of and living in the State of Nevada,
3 County of Clark.

4 3. The true names of the Defendants identified as "Does 1 through 10" [Doe
5 Defendants], are either unknown to Plaintiff, or their specific role in the conducts alleged herein
6 are presently unknown to Plaintiff, and therefore Plaintiff sues the Doe Defendants by such
7 fictitious names. Plaintiff will seek leave to amend this complaint to allege the true names and
8 capacities of the Doe Defendants at such time when they are ascertained. Plaintiff believes they
9 will be able to identify Doe Defendants after appropriate discovery has been completed.

10 JURISDICTION AND VENUE

11 4. Plaintiff repeats, realleges, and incorporates by reference the foregoing
12 paragraphs as if set forth in full herein.

13 5. This Court has personal jurisdiction over the Defendant because (a) the Defendant
14 was a resident of Nevada for purposes of personal jurisdiction and conduct business in Nevada,
15 and (b) the causes of action arise from events taking place at least in part in Nevada.

16 6. Pursuant to N.R.S. § 13.040, venue in this Court is appropriate because the one
17 Defendant resided in this County.

18 GENERAL ALLEGATIONS

19 7. Plaintiff repeats, realleges, and incorporates by reference the foregoing
20 paragraphs as if set forth in full herein.

21 8. On or about March 21, 2007, Plaintiff, as Landlord, entered into a Lease
22 agreement (hereinafter the "Lease") with Lanciani of Las Vegas Inc., a Nevada corporation, dba
23 Lanciani Travel Jewelry ("Lanciani"), as Tenant. The Lease was executed by Defendant
24 IAVARONE in his capacity of president of Lanciani.

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GROGAN & FLORENTINO
8345 West Sunset Road
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Las Vegas, Nevada 89113

1 9. Pursuant to the terms of the Lease, Lanciani agreed to lease Space #2010 in the
2 GCS Mall, located at 3377 Las Vegas Boulevard South, Las Vegas, Nevada 89109 (the "Leased
3 Premise").

4 10. The term of the Lease was for approximately ten (10) years commencing on June
5 1, 2007, and expiring February 28, 2017.

6 11. Pursuant to the terms of the Lease, Lanciani agreed to a Fixed Minimum Rent
7 payment schedule as well as other periodic payments as additional "Rent" for real property taxes,
8 utilities, Lanciani's prorata share of common area expenses (CAMs) and the Marketing,
9 Advertising, Promotional Service Charge.

10 12. On or about May 1, 2001, Plaintiff and Lanciani entered into the First
11 Amendment of Lease agreement which re-defined the Rent Commencement Date as June 22,
12 2007, and made no other changes or modifications to the Lease and ratified and confirmed all
13 remaining terms of the Lease. The First Amendment was executed by Defendant IAVARONE
14 as president of Lanciani.

15 13. On or about December 1, 2008, Lanciani ceased making payments owed to
16 Plaintiff under the Lease.

17 14. On or about May 29, 2009, Plaintiff sent Lanciani a Notice of Default for Non-
18 Payment of Rent and Other Charges in the amount of \$79,685.47.

19 15. Notwithstanding receipt of the Notice of Default, Lanciani failed to make
20 payment of rent and other charges to Plaintiff and on June 16, 2009, served upon Lanciani a Five
21 Day Notice to Pay or Quit the premises.

22 16. Lanciani failed and refused to pay the amounts owed and shortly after service of
23 the Five Day Notice, Lanciani vacated the Lease Premises.

24 17. Lanciani did not made any of the payments owed under the Lease and on August

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CROWELL & FORENTINO
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Las Vegas, Nevada 89113

1 4, 2009, Plaintiff filed a Complaint for Damages in the Eighth Judicial District Court, case
2 number A5965814 ("District Court Action").

3 18. On December 22, 2009, Clerk's Default was entered against Lanciani.

4 19. On September 20, 2010, an Order Granting Default Judgment against Lanciani
5 was entered in the District Court Action in favor of Plaintiff.

6 20. Plaintiff is informed and believes and therefore alleges that Defendant
7 IAVARONE is and/or was an officer, director, shareholder and/or owner of Lanciani, and is and
8 was the primary beneficiary of all ownership interests therein. In the exercise of ownership
9 rights and the exercise of duties as officer, director, shareholder, and/or owner, IAVARONE
10 exercised complete control over the activities and operations of Lanciani to the extent that
11 Lanciani performed acts as the mere alter ego of Defendant IAVARONE. To recognize Lanciani
12 as a separate entity and insulate the IAVARONE from liability would in effect sanction injustice
13 and operate as a fraud against Plaintiff.

14 21. Plaintiff is further informed and believes that Defendant IAVARONE
15 commingled funds and other assets, failed to segregate funds of Lanciani, conducted the
16 unauthorized diversion of corporate funds or assets, including the use of a corporation as a mere
17 shell, instrumentality or conduit for a single venture or the business of an individual or another
18 corporation, and formed and used a corporation to transfer to it the existing liability of another
19 person or entity.

20 **FIRST CLAIM FOR RELIEF**

21 **Alter Ego**

22 22. Plaintiff repeats, realleges, and incorporates by reference the foregoing
23 paragraphs as if set forth in full herein.
24

KAMPER CROWELL RENSHAW
GROVER & FLORENTINO
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Suite 250
Las Vegas, Nevada 89113

1 23. At all times relevant herein, Lanciani was influenced and governed by Defendant
2 IAVARONE, who is and was the president, an officer, a director, a shareholder, and/or an owner
3 of Lanciani and the primary beneficiary of all ownership interests therein.

4 24 Upon information and belief, there is a unity of interest and ownership between
5 Lanciani and Defendant IAVARONE such that one is inseparable from the other.

6 25. Upon information and belief, Defendant IAVARONE treated the assets of
7 Lanciani as assets of IAVARONE.

8 26. Upon information and belief, Defendant IAVARONE commingled funds and
9 other assets, failed to segregate funds of Lanciani, conducted the unauthorized diversion of
10 corporate funds or assets, including the use of a corporation as a mere shell, instrumentality or
11 conduit for a single venture or the business of an individual or another corporation, and formed
12 and used Lanciani to transfer to it the existing liability of IAVARONE.

13 27. Upon information and belief, Defendant IAVARONE transferred assets from
14 Lanciani to another entity in order to avoid payment of the debt owed to Plaintiff by Lanciani.

15 28. Upon information and belief, IAVARONE was the alter ego of Lanciani so that to
16 maintain the corporate formality would sanction a fraud or promote injustice to Plaintiff.

17 29. Plaintiff requests that the Court find that Defendant IAVARONE was the alter
18 ego of Lanciani, or that Defendant IAVARONE funneled assets to another entity owned by
19 IAVARONE, and that this Court disregard corporate formalities and hold IAVARONE
20 individually liable for all damages awarded in favor of Plaintiff.

21 30. Upon information and belief, Defendant IAVARONE's acts include, but are not
22 limited to, commingling of funds, undercapitalization, unauthorized diversion of funds, treatment
23 of corporate assets as the individual's own, and failure to observe corporate formalities.

24
KEMPES CROWELL REMBAW
GROHNER & FLORENTINO
8345 West Sunset Road
Suite 250
Las Vegas, Nevada 89113

1 31. Defendant IAVARONE's actions have caused damages to Plaintiff in an amount
2 in excess of \$10,000.00, plus interest and costs.

3 32. Plaintiff has incurred legal expenses and fees in connection with Defendant
4 IAVARONE's actions and Plaintiff is entitled to recovery of such legal expenses and fees as it
5 has been forced to retain the services of attorneys to prosecute this action.

6 WHEREFORE, Plaintiff prays for judgment against Defendant RICCARDO
7 IAVARONE, as follows:

8 1. For judgment against Defendant IAVARONE in an amount in excess of
9 \$10,000.00, which amount shall be proven at trial;

10 2. For a judgment against Defendant IAVARONE for the past-due rent and charges
11 and the future rent and charges owed under the Lease;

12 3. For an award of pre-judgment and post-judgment interest on all amounts due and
13 owing to Plaintiff.

14 4. For attorneys' fees and costs; and
15
16

17 /././

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22 /././

23 /././

24 /././

KAEFFER CROWELL REINHART
GRONAUER & FLORENTINO
8345 West Sunset Road
Suite 250
Las Vegas, Nevada 89113

1 5. For such other and further relief as the Court may deem just and proper.

2 DATED this 7th day of November, 2011.

3 KAEMPFER CROWELL RENSHAW
4 GRONAUER & FIORENTINO

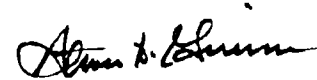
5
6 BY: 

7 JAMES E. SMYTH II (Nevada Bar No. 6506)
8 LESLEY B. MILLER (Nevada Bar No. 7987)
9 ANTHONY J. CELESTE (Nevada Bar No. 8776)
8345 West Sunset Road, Suite 250
Las Vegas, Nevada 89169
Attorneys for Plaintiff

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22 KAEMPFER CROWELL RENSHAW
23 GRONAUER & FIORENTINO
24 8345 West Sunset Road
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Las Vegas, Nevada 89169

EXHIBIT 2

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CLERK OF THE COURT

1 **ASCR**
JAMES E SMYTH II
2 Nevada Bar No. 6506
LESLEY B. MILLER
3 Nevada Bar No. 7987
ANTHONY J. CELESTE
4 Nevada Bar No. 8776
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7 Fax: (702) 796-7181
jsmyth@kcnvlaw.com

8 **Attorneys for Plaintiff**

10 DISTRICT COURT

11 CLARK COUNTY, NEVADA

12 GRAND CANAL SHOPS II, LLC, a Delaware
limited liability company,

Case No. A-11-651462-C
Dept. No. XIX

13 Plaintiff,

14 vs.

ACCEPTANCE OF SERVICE

15 RICCARDO IAVARONE; and DOES I
through X, inclusive,

16 Defendant.

18 /././

19 /././

20 /././

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KAEMPFER CROWELL RENSHAW
GRONAUER & FIORENTINO
8345 West Sunset Road
Suite 250
Las Vegas, Nevada 89113

1 The undersigned hereby accepts service of the Summons to Riccardo Iavarone and
2 Complaint on behalf of Defendant RICCARDO IAVARONE in the above-entitled action.

3 DATED this ____ day of January, 2012.

4 WILLIAM E. COOPER LAW OFFICES

5
6
7 BY: 

8 WILLIAM E. COOPER, ESQ.

9 601 East Bridger Avenue

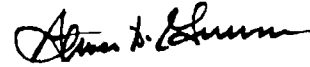
10 Las Vegas, Nevada 89101

11 *Attorneys for Defendant*

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KEMPFFER CROWELL RENSHAW
GROWER & FLORENTINO
8345 West Sunset Road
Suite 250
Las Vegas, Nevada 89113

EXHIBIT 3

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CLERK OF THE COURT

ANS
William E. Cooper, Esq.
William E. Cooper Law Offices
Nevada State Bar No. 2213
601 E. Bridger Avenue
Las Vegas, Nevada 89101
(702) 382-5111

Attorney for Defendant,
Riccardo Iavarone

DISTRICT COURT
CLARK COUNTY, NEVADA

GRAND CANAL SHOPS II, L.L.C., a
Delaware limited liability company,

Plaintiff,

vs.

RICCARDO LAVARONE; and DOES I
through X, inclusive,

Defendant.

Case No. A-11-651462-C
Dept. No. XIX

**DEFENDANT RICCARDO
LAVARONE'S ANSWER TO
PLAINTIFF'S COMPLAINT**

Comes now, Defendant Riccardo Iavarone ("Iavarone"), as and for his answer to the Complaint on file herein, admits, denies and avers as follows:

1. Answering Paragraph 1, admits that according to the official record of the Nevada Secretary of State, attached hereto as Exhibit A, Plaintiff is a Delaware Limited Liability Company with members/managers who are citizens of the State of Illinois.

2. Answering Paragraph 2, based on the Affidavit of Riccardo Iavarone which is attached hereto as Exhibit B, denies Defendant was a resident and living in the State of Nevada at all relevant times. Instead, at all relevant times Defendant was and is a United States citizen residing and domiciled in the State of New York.

3. Answering Paragraph 3, lacks sufficient knowledge as to the truth or falsity of the allegations contained therein and for that reason denies the allegations contained therein.

1 4. Answer Paragraphs 5, 6, 21, 24, 25, 26, 27, 28, 29, 30, 31 and 32, denies the
2 allegations contained therein.

3 5. Answering Paragraphs 8, 9 and 12, admits the allegations contained therein.

4 6. Answering Paragraph 10, admits the lease was for approximately 10 years, expiring
5 February 28, 2017, but denies every other allegation contained therein.

6 7. Answering Paragraph 11, admits only that the Lease speaks for itself as to the terms
7 contained therein, but denies each and every other allegation.

8 8. Answering Paragraphs 13, 14, 15 and 16, admits Lanciani ceased making payments
9 under the Lease, received a Notice of Default, was served with a Five Day Notice to Pay or Quit and
10 vacated the Lease Premises, but lacks sufficient knowledge as to the truth or falsity of the remaining
11 allegations and for that reason denies the allegations.

12 9. Answering Paragraphs 17, 18 and 19, lacks sufficient knowledge as to the truth or
13 falsity of the allegations contained therein with reference to case number A5965814, and for that
14 reason denies the allegations contained therein.

15 10. Answering Paragraphs 20 and 23, admits Defendant was the President and one of the
16 officers, and shareholders of Lanciani of Las Vegas, Inc., but denies each and every other allegation
17 contained therein.

18 11. Answering Paragraphs 4, 7 and 22, Defendant incorporates his answers to Paragraphs
19 1 to 32 of the Complaint.

20 **FIRST DEFENSE**

21 The Complaint fails to state a claim upon which relief can be granted.

22 **SECOND DEFENSE**

23 Lack of jurisdiction over the person.

24 **THIRD DEFENSE**

25 Plaintiff's claim is barred by the Doctrine of Waiver.

26 **FOURTH DEFENSE**

27 Plaintiff has failed to mitigate damages.

28 ///

FIFTH DEFENSE

Plaintiff's claim is barred by the applicable statute of limitations.

SIXTH DEFENSE

Defendant is entitled to a set-off.

SEVENTH DEFENSE

Plaintiff's claim is barred by the Doctrine of Laches.

EIGHTH DEFENSE

Plaintiff is estopped from asserting any rights which it may have against this Defendant.

NINTH DEFENSE

Pursuant to NRCP Rule 11, as amended, all possible affirmative defenses may not have been alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the filing of Defendant's Answer, and as such, answering Defendant reserves the right to amend this answer to add additional affirmative defenses if subsequent investigation and discovery warrants such an action.

....

WHEREFORE, Defendant Riccardo Iavarone prays as follows:

- a. That Plaintiff take nothing by reason of its Complaint;
- b. That Defendant be awarded his costs, expenses and attorney fees incurred in the defense of this action;
- c. That Plaintiff's Complaint be dismissed; and
- d. For such other relief as the court deems just and proper.

Dated this 9th day of February, 2012.

WILLIAM E. COOPER LAW OFFICES

By /s/ William E. Cooper, Esq.
William E. Cooper, Esq.
Nevada State Bar No. 2213
601 E. Bridger Avenue
Las Vegas, Nevada 89101
Attorney for Defendant,
Riccardo Iavarone

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the **DEFENDANT RICCARDO IAVARONE'S ANSWER TO PLAINTIFF'S COMPLAINT**, has been forwarded to the following parties on the 9th day of February, 2012.

Via Regular Mail
Lesley B. Miller
Kaempfer Crowell Renshaw
Gronauer & Fiorentino
8345 W. Sunset Road, Suite 250
Las Vegas, Nevada 89113

By: /s/ Diedre N. Hoffman
Diedre N. Hoffman, an employee
of William E. Cooper Law Offices

Case 2:12-cv-00213-KJD -RJJ Document 1 Filed 02/10/12 Page 20 of 29

EXHIBIT A

Entity Details - Secretary of State, Nevada

Case 2:12-cv-00213-KJD -RJJ Document 1 Filed 02/10/12 Page 21 of 29

Page 1 of 3

GRAND CANAL SHOPS II, LLC

Business Entity Information			
Status:	Active	File Date:	5/31/2002
Type:	Foreign Limited-Liability Company	Entity Number:	LLC6575-2002
Qualifying State:	DE	List of Officers Due:	5/31/2012
Managed By:	Managers	Expiration Date:	5/31/2502
NV Business ID:	NV20021067500	Business License Exp:	5/31/2012

Additional Information	
Central Index Key:	

Registered Agent Information			
Name:	CSC SERVICES OF NEVADA, INC.	Address 1:	2215-B RENAISSANCE DR
Address 2:		City:	LAS VEGAS
State:	NV	Zip Code:	89119
Phone:		Fax:	
Mailing Address 1:		Mailing Address 2:	
Mailing City:		Mailing State:	NV
Mailing Zip Code:			
Agent Type:	Commercial Registered Agent - Corporation		
Jurisdiction:	NEVADA	Status:	Active

Financial Information	
No Par Share Count:	0
Capital Amount:	\$ 0
No stock records found for this company	

Officers		<input type="checkbox"/> Include Inactive Officers	
Manager - ALAN J BAROCAS			
Address 1:	110 N. WACKER DR	Address 2:	
City:	CHICAGO	State:	IL
Zip Code:	60606	Country:	
Status:	Active	Email:	
Manager - STEVEN J DOUGLAS			
Address 1:	110 N. WACKER DRIVE	Address 2:	
City:	CHICAGO	State:	IL
Zip Code:	60606	Country:	
Status:	Active	Email:	
Manager - MICHELLE A DREYER			
Address 1:	110 N. WACKER DRIVE	Address 2:	
City:	CHICAGO	State:	IL
Zip Code:	60606	Country:	
Status:	Active	Email:	
Manager - EDMUND J HOYT			
Address 1:	110 N. WACKER DR	Address 2:	

Entity Details - Secretary of State, Nevada

Case 2:12-cv-00213-KJD -RJJ Document 1 Filed 02/10/12 Page 22 of 29

Page 2 of 3

City:	CHICAGO	State:	IL
Zip Code:	60606	Country:	
Status:	Active	Email:	
Manager - ANDREW T PANACCIONE			
Address 1:	110 N. WACKER DR.	Address 2:	
City:	CHICAGO	State:	IL
Zip Code:	60606	Country:	
Status:	Active	Email:	

Actions/Amendments

Action Type:	Application for Foreign Registration		
Document Number:	LLC6575-2002-001	# of Pages:	1
File Date:	5/31/2002	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		
Document Number:	LLC6575-2002-006	# of Pages:	1
File Date:	7/26/2002	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		
Document Number:	LLC6575-2002-005	# of Pages:	1
File Date:	4/15/2003	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		
Document Number:	LLC6575-2002-002	# of Pages:	1
File Date:	5/10/2004	Effective Date:	
List of Officers for 2004 to 2005			
Action Type:	Amendment		
Document Number:	LLC6575-2002-003	# of Pages:	1
File Date:	5/17/2004	Effective Date:	
CERTIFICATE OF AMENDMENT FILED AMENDING ARTICLES 5,6 & 7. (2)PGS MLJ			
Action Type:	Registered Agent Change		
Document Number:	LLC6575-2002-004	# of Pages:	1
File Date:	5/17/2004	Effective Date:	
NATIONAL CORPORATE RESEARCH, LTD. 202 S. MINNESOTA CARSON CITY NV 89703 MLJ			
Action Type:	Annual List		
Document Number:	20050172877-49	# of Pages:	1
File Date:	5/09/2005	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		
Document Number:	20060296857-45	# of Pages:	1
File Date:	5/08/2006	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		
Document Number:	20070328659-52	# of Pages:	1
File Date:	5/09/2007	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		
Document Number:	20080320359-82	# of Pages:	1
File Date:	5/08/2008	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		

Entity Details - Secretary of State, Nevada

Case 2:12-cv-00213-KJD -RJJ Document 1 Filed 02/10/12 Page 23 of 29

Page 3 of 3

Document Number:	20090497292-34	# of Pages:	1
File Date:	6/22/2009	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		
Document Number:	20100286492-14	# of Pages:	1
File Date:	4/29/2010	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		
Document Number:	20110397711-42	# of Pages:	2
File Date:	5/27/2011	Effective Date:	
(No notes for this action)			

EXHIBIT B

AFFIDAVIT OF RICCARDO IAVARONE

STATE OF NEW YORK
 COUNTY OF QUEENS } ss.


RICCARDO IAVARONE, being duly sworn, deposes and says:

1. I am the named Defendant in a case entitled: *Grand Canal Shops II, LLC v. Riccardo Iavarone*, Case No. A-11-651-462-C, Dept. No. XIX, filed in the Eighth Judicial District Court of the State of Nevada, in and for the County of Clark.

2. I have reviewed the Complaint. Paragraph 2 of the Complaint alleges that at all relevant times I was a resident of County of Clark and living in the State of Nevada. That allegation is false. At all relevant times I have been and I am domiciled in and a resident and citizen of the State of New York.


 RICCARDO IAVARONE

SUBSCRIBED and SWORN to me
 before this 9th day of February, 2012.

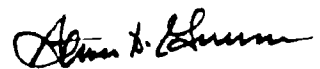

 NOTARY PUBLIC in and for said
 COUNTY and STATE

JOHN A. GHEDINI
 Notary Public, State of New York
 No. 01GH6817476
 Qualified in Queens County
 Commission Expires Dec. 14, 2014

Case 2:12-cv-00213-KJD -RJJ Document 1 Filed 02/10/12 Page 26 of 29

EXHIBIT 4

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CLERK OF THE COURT

ORDR

JAMES E. SMYTH II
Nevada Bar No. 6506
ANTHONY J. CELESTE
Nevada Bar No. 8776
KAEMPFER CROWELL RENSHAW
GRONAUER & FIORENTINO
8345 West Sunset Road, Suite 250
Las Vegas, Nevada 89113
Telephone: (702) 792-7000
Fax: (702) 796-7181
jsmyth@kcnvlaw.com
aceleste@kcnvlaw.com

Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

GRAND CANAL SHOPS II, LLC, a Delaware
limited liability company and **debtor in
possession,**

Plaintiff,

vs.

LANCIANI OF LAS VEGAS INC., a Nevada
corporation dba LANCIANI TRAVEL
JEWELRY; DOES I through X; and ROE
BUSINESS ENTITIES I through X, inclusive,

Defendants.

Case No. 09A596584
Dept. No. XI

**ORDER GRANTING DEFAULT
JUDGMENT AGAINST LANCIANI OF
LAS VEGAS INC. DBA LANCIANI
TRAVEL JEWELRY**

An Application having been duly made by Plaintiff GRAND CANAL SHOPS II, LLC
("Plaintiff") for default judgment against Defendant LANCIANI OF LAS VEGAS INC. dba
LANCIANI TRAVEL JEWELRY ("Defendant"), and the Default having been entered for failure
to answer or otherwise defend as to Plaintiff's Complaint, and it appearing that the Defendant is a

///

///

1 juristic entity, not in the military service of the United States and not an infant or incompetent
2 person, and good cause appearing therefor,

3 **IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** that judgment is
4 entered in favor of Plaintiff GRAND CANAL SHOPS II, LLC and against Defendant
5 LANCIANI OF LAS VEGAS INC. dba LANCIANI TRAVEL JEWELRY, in the total sum of
6 \$258,356.73 as further itemized herein below, which sum shall accrue interest at the statutory
7 rate as provided by law until satisfied in full.

8 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED**, that said judgment is
9 itemized as follows:

- 10 a. For the sum of \$244,898.87 in past due rent, past due CAM charges, past due
11 HVAC charges, past due water charges, late fees, and other charges due under the
12 Lease;
- 13 b. Upon written motion, for attorneys' fees in the amount of \$3,732.50 and costs in
14 the amount of \$513.40 reasonably incurred in the prosecution of this matter;
- 15 c. For an award of pre-judgment interest at the statutory rate of prime plus 2%, or
16 5.25% (as of January 1, 2010), on the past due balance of \$244,898.87 from
17 August 7, 2009 (date of service of process of Defendant) through August 24,
18 2010, totaling \$13,457.86 (\$35.23 per day for 382 days);
- 19 d. For an award of post-judgment interest at the statutory rate of prime plus 2%,
20 currently 5.25% (as of January 1, 2010) and accruing on all amounts due and
21 owing to Plaintiff until judgment is satisfied in full;
- 22 e. For a reservation of jurisdiction to revise the future/expectation damage award if
23 Plaintiff is unable to further mitigate its damages after August 1, 2010; and
24

1 f. Upon written motion, for a reservation of jurisdiction to revise the attorneys'
2 fees/costs damage award if Plaintiff is required to incur additional legal fees and
3 costs after August 1, 2010;

4 **IT IS SO ORDERED.**

5 DATED this 9 day of ~~August~~ *September*, 2010.

6
7 
DISTRICT COURT JUDGE

8 Submitted by:

9 KAEMPFER CROWELL RENSHAW
GRONAUER & FIORENTINO

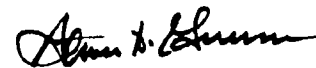
10 By: 

11 JAMES E. SMYTH II (Nevada Bar No. 6506)
12 ANTHONY J. CELESTE (Nevada Bar No. 8776)
8345 West Sunset Road, Suite 250
13 Las Vegas, Nevada 89113
Attorneys for Plaintiff

Exhibit 2

Exhibit 2

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CLERK OF THE COURT

COMP

JAMES E SMYTH II
Nevada Bar No. 6506
LESLEY B. MILLER
Nevada Bar No. 7987
ANTHONY J. CELESTE
Nevada Bar No. 8776
KAEMPFER CROWELL RENSHAW
GRONAUER & FIORENTINO
8345 West Sunset Road, Suite 250
Las Vegas, Nevada 89113
Telephone: (702) 792-7000
Fax: (702) 796-7181
jsmyth@kcnvlaw.com

Attorneys for Plaintiff Grand Canal Shops II, LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

GRAND CANAL SHOPS II, LLC, a Delaware
limited liability company,

Plaintiff,

vs.

RICCARDO IAVARONE; and DOES I
through X, inclusive,

Defendant.

Case No. A - 11 - 651462 - C

Dept. No. X I X

COMPLAINT

Plaintiff, GRAND CANAL SHOPS II, LLC ("Plaintiff"), by and through its attorneys,
Kaempfer Crowell Renshaw Gronauer & Fiorentino, for its Complaint against the above-named
Defendant, alleges as follows:

PARTIES

1. Plaintiff is, and at all times relevant herein was, a Foreign Limited-Liability
Company.

KAEMPFER CROWELL RENSHAW
GRONAUER & FIORENTINO
8345 West Sunset Road
Suite 250
Las Vegas, Nevada 89113

1 2. Upon information and belief, Defendant, RICCARDO IAVARONE
2 ("IAVARONE"), at all times relevant herein, was a resident of and living in the State of Nevada,
3 County of Clark.

4 3. The true names of the Defendants identified as "Does 1 through 10" [Doe
5 Defendants], are either unknown to Plaintiff, or their specific role in the conducts alleged herein
6 are presently unknown to Plaintiff, and therefore Plaintiff sues the Doe Defendants by such
7 fictitious names. Plaintiff will seek leave to amend this complaint to allege the true names and
8 capacities of the Doe Defendants at such time when they are ascertained. Plaintiff believes they
9 will be able to identify Doe Defendants after appropriate discovery has been completed.

10 **JURISDICTION AND VENUE**

11 4. Plaintiff repeats, realleges, and incorporates by reference the foregoing
12 paragraphs as if set forth in full herein.

13 5. This Court has personal jurisdiction over the Defendant because (a) the Defendant
14 was a resident of Nevada for purposes of personal jurisdiction and conduct business in Nevada,
15 and (b) the causes of action arise from events taking place at least in part in Nevada.

16 6. Pursuant to N.R.S. § 13.040, venue in this Court is appropriate because the one
17 Defendant resided in this County.

18 **GENERAL ALLEGATIONS**

19 7. Plaintiff repeats, realleges, and incorporates by reference the foregoing
20 paragraphs as if set forth in full herein.

21 8. On or about March 21, 2007, Plaintiff, as Landlord, entered into a Lease
22 agreement (hereinafter the "Lease") with Lanciani of Las Vegas Inc., a Nevada corporation, dba
23 Lanciani Travel Jewelry ("Lanciani"), as Tenant. The Lease was executed by Defendant
24 IAVARONE in his capacity of president of Lanciani.

KAEFFER CROWELL RENSCHAW
GROHMAN & FLORENTINO
8345 West Sunset Road
Suite 250
Las Vegas, Nevada 89113

1 9. Pursuant to the terms of the Lease, Lanciani agreed to lease Space #2010 in the
2 GCS Mall, located at 3377 Las Vegas Boulevard South, Las Vegas, Nevada 89109 (the "Leased
3 Premise").

4 10. The term of the Lease was for approximately ten (10) years commencing on June
5 1, 2007, and expiring February 28, 2017.

6 11. Pursuant to the terms of the Lease, Lanciani agreed to a Fixed Minimum Rent
7 payment schedule as well as other periodic payments as additional "Rent" for real property taxes,
8 utilities, Lanciani's prorata share of common area expenses (CAMs) and the Marketing,
9 Advertising, Promotional Service Charge.

10 12. On or about May 1, 2001, Plaintiff and Lanciani entered into the First
11 Amendment of Lease agreement which re-defined the Rent Commencement Date as June 22,
12 2007, and made no other changes or modifications to the Lease and ratified and confirmed all
13 remaining terms of the Lease. The First Amendment was executed by Defendant IAVARONE
14 as president of Lanciani.

15 13. On or about December 1, 2008, Lanciani ceased making payments owed to
16 Plaintiff under the Lease.

17 14. On or about May 29, 2009, Plaintiff sent Lanciani a Notice of Default for Non-
18 Payment of Rent and Other Charges in the amount of \$79,685.47.

19 15. Notwithstanding receipt of the Notice of Default, Lanciani failed to make
20 payment of rent and other charges to Plaintiff and on June 16, 2009, served upon Lanciani a Five
21 Day Notice to Pay or Quit the premises.

22 16. Lanciani failed and refused to pay the amounts owed and shortly after service of
23 the Five Day Notice, Lanciani vacated the Lease Premises.

24 17. Lanciani did not made any of the payments owed under the Lease and on August

1 4, 2009, Plaintiff filed a Complaint for Damages in the Eighth Judicial District Court, case
2 number A5965814 ("District Court Action").

3 18. On December 22, 2009, Clerk's Default was entered against Lanciani.

4 19. On September 20, 2010, an Order Granting Default Judgment against Lanciani
5 was entered in the District Court Action in favor of Plaintiff.

6 20. Plaintiff is informed and believes and therefore alleges that Defendant
7 IAVARONE is and/or was an officer, director, shareholder and/or owner of Lanciani, and is and
8 was the primary beneficiary of all ownership interests therein. In the exercise of ownership
9 rights and the exercise of duties as officer, director, shareholder, and/or owner, IAVARONE
10 exercised complete control over the activities and operations of Lanciani to the extent that
11 Lanciani performed acts as the mere alter ego of Defendant IAVARONE. To recognize Lanciani
12 as a separate entity and insulate the IAVARONE from liability would in effect sanction injustice
13 and operate as a fraud against Plaintiff.

14 21. Plaintiff is further informed and believes that Defendant IAVARONE
15 commingled funds and other assets, failed to segregate funds of Lanciani, conducted the
16 unauthorized diversion of corporate funds or assets, including the use of a corporation as a mere
17 shell, instrumentality or conduit for a single venture or the business of an individual or another
18 corporation, and formed and used a corporation to transfer to it the existing liability of another
19 person or entity.

20 **FIRST CLAIM FOR RELIEF**

21 **Alter Ego**

22 22. Plaintiff repeats, realleges, and incorporates by reference the foregoing
23 paragraphs as if set forth in full herein.
24

KAEMFER CROWELL RENSNAW
GROHNER & FLORENTINO
8345 West Sunset Road
Suite 250
Las Vegas, Nevada 89113

1 23. At all times relevant herein, Lanciani was influenced and governed by Defendant
2 IAVARONE, who is and was the president, an officer, a director, a shareholder, and/or an owner
3 of Lanciani and the primary beneficiary of all ownership interests therein.

4 24. Upon information and belief, there is a unity of interest and ownership between
5 Lanciani and Defendant IAVARONE such that one is inseparable from the other.

6 25. Upon information and belief, Defendant IAVARONE treated the assets of
7 Lanciani as assets of IAVARONE.

8 26. Upon information and belief, Defendant IAVARONE commingled funds and
9 other assets, failed to segregate funds of Lanciani, conducted the unauthorized diversion of
10 corporate funds or assets, including the use of a corporation as a mere shell, instrumentality or
11 conduit for a single venture or the business of an individual or another corporation, and formed
12 and used Lanciani to transfer to it the existing liability of IAVARONE.

13 27. Upon information and belief, Defendant IAVARONE transferred assets from
14 Lanciani to another entity in order to avoid payment of the debt owed to Plaintiff by Lanciani.

15 28. Upon information and belief, IAVARONE was the alter ego of Lanciani so that to
16 maintain the corporate formality would sanction a fraud or promote injustice to Plaintiff.

17 29. Plaintiff requests that the Court find that Defendant IAVARONE was the alter
18 ego of Lanciani, or that Defendant IAVARONE funneled assets to another entity owned by
19 IAVARONE, and that this Court disregard corporate formalities and hold IAVARONE
20 individually liable for all damages awarded in favor of Plaintiff.

21 30. Upon information and belief, Defendant IAVARONE's acts include, but are not
22 limited to, commingling of funds, undercapitalization, unauthorized diversion of funds, treatment
23 of corporate assets as the individual's own, and failure to observe corporate formalities.
24

KAEMPFER CROWELL RENSHAW
GRONAUER & FIORENTINO
8345 West Sunset Road
Suite 250
Las Vegas, Nevada 89113

1 31. Defendant IAVARONE's actions have caused damages to Plaintiff in an amount
2 in excess of \$10,000.00, plus interest and costs.

3 32. Plaintiff has incurred legal expenses and fees in connection with Defendant
4 IAVARONE's actions and Plaintiff is entitled to recovery of such legal expenses and fees as it
5 has been forced to retain the services of attorneys to prosecute this action.

6 WHEREFORE, Plaintiff prays for judgment against Defendant RICCARDO
7 IAVARONE, as follows:

8 1. For judgment against Defendant IAVARONE in an amount in excess of
9 \$10,000.00, which amount shall be proven at trial;

10 2. For a judgment against Defendant IAVARONE for the past-due rent and charges
11 and the future rent and charges owed under the Lease;

12 3. For an award of pre-judgment and post-judgment interest on all amounts due and
13 owing to Plaintiff.

14 4. For attorneys' fees and costs; and
15
16

17 //.//.

18 //.//.

19 //.//.

20 //.//.

21 //.//.

22 //.//.

23 //.//.

24 //.//.

KEMPFFER CROWELL RENSHAW
GROMAUER & FIORENTINO
8345 West Sunset Road
Suite 250
Las Vegas, Nevada 89113

1 5. For such other and further relief as the Court may deem just and proper.

2 DATED this 3rd day of November, 2011.

3
4 KAEMPFER CROWELL RENSHAW
 GRONAUER & FIORENTINO

5
6 BY: 

7 JAMES E. SMYTH II (Nevada Bar No. 6506)
8 LESLEY B. MILLER (Nevada Bar No. 7987)
9 ANTHONY J. CELESTE (Nevada Bar No. 8776)
 8345 West Sunset Road, Suite 250
 Las Vegas, Nevada 89169
 Attorneys for Plaintiff

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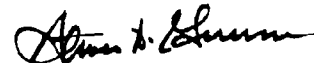
KAEMPFER CROWELL RENSHAW
GRONAUER & FIORENTINO
8345 West Sunset Road
Suite 250
Las Vegas, Nevada 89113

Exhibit 3

Exhibit 3

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CLERK OF THE COURT

SUMM

JAMES E SMYTH II

Nevada Bar No. 6506

LESLEY B. MILLER

Nevada Bar No. 7987

ANTHONY J. CELESTE

Nevada Bar No. 8776

KAEMPFER CROWELL RENSHAW

GRONAUER & FIORENTINO

8345 West Sunset Road, Suite 250

Las Vegas, Nevada 89113

Telephone: (702) 792-7000

Fax: (702) 796-7181

jsmyth@kcnvlaw.com

Attorneys for Plaintiff Grand Canal Shops II, LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

GRAND CANAL SHOPS II, LLC, a Delaware
limited liability company,

Plaintiff,

vs.

RICCARDO IAVARONE; and DOES I
through X, inclusive,

Defendant.

Case No. **A-11-651462-C**
Dept. No. **XIX**

SUMMONS TO RICCARDO IAVARONE

SUMMONS - CIVIL

**NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU
WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS. READ
THE INFORMATION BELOW.**

RICCARDO IAVARONE

TO THE DEFENDANT(S): A civil Complaint has been filed by the Plaintiff(s) against
you for the relief set forth in the Complaint.

1. If you intend to defend this lawsuit, within 20 days after this Summons is served
on you, exclusive of the day of service, you must do the following:

KAEMPFER CROWELL RENSHAW
GRONAUER & FIORENTINO
8345 West Sunset Road
Suite 250
Las Vegas, Nevada 89113

(a) File with the Clerk of this Court, whose address is shown below, a formal written response to the Complaint in accordance with the rules of the Court, with the appropriate filing fee.

(b) Serve a copy of your response upon the attorney whose name and address is shown below.

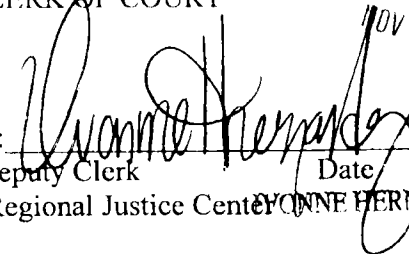
2. Unless you respond, your default will be entered upon application of the Plaintiff(s) and failure to so respond will result in a judgment of default against you for the relief demanded in the Complaint, which could result in the taking of money or property or other relief requested in the Complaint.

3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.

4. The State of Nevada, its political subdivisions, agencies, officers, employees, board members, commission members and legislators each have 45 days after service of this Summons within which to file an Answer or other responsive pleading to the Complaint.

STEVEN D. GRIERSON
CLERK OF COURT

Submitted by:
KAEMPFER CROWELL RENSHAW
GRONAUER & FIORENTINO

By:  NOV 15 2011
Deputy Clerk Date
Regional Justice Center YVONNE HERNANDEZ

James E. Smyth II (Nevada Bar No. 6506)
Lesley B. Miller (Nevada Bar No. 7987)
Anthony J. Celeste (Nevada Bar No. 8776)
8345 w. Sunset Road, Suite 250
Las Vegas, Nevada 89113

**NOTE: When service is by publication, add a brief statement of the object of the action.
See Nevada Rules of Civil Procedure 4(b).**

KAEMPFER CROWELL RENSHAW
GRONAUER & FIORENTINO
8345 West Sunset Road
Suite 250
Las Vegas, Nevada 89113

STATE OF NEVADA
DISTRICT COURT
DISTRICT:

COUNTY OF CLARK

Index # A-11-651462-C

ATTORNEY(S): : PH:
ADDRESS: File No.:

Grand Canal Shops II, LLC

vs

Plaintiff(s)/Petitioner(s)

Riccardo Iavarone, et. al.

Defendant(s)/Respondent(s)

STATE OF NEW YORK, COUNTY OF WESTCHESTER:

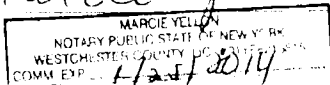
AFFIDAVIT OF SERVICE

Guy Djahoue, being duly sworn deposes and says: Deponent is not a party herein, is over 18 years of age and resides in New York State. On December 15, 2011 at 7:43pm, at 341 Orienta Ave, Mamaroneck, NY 10543, deponent served the within Summons and Complaint

on: Riccardo Iavarone, Defendant therein named.

- #1 INDIVIDUAL ☒ By delivering a true copy of each to said recipient personally; deponent knew the person served to be the person described as said person therein.
- #2 ENTITY ☐ By delivering thereat a true copy of each to personally, deponent knew the person so served to be the of the entity authorized to accept service on behalf of the entity.
- #3 SUITABLE AGE PERSON ☐ By delivering a true copy of each to a person of suitable age and discretion. Recipient knew the respondent and confirmed said premises is respondent's: [] actual place of business [] dwelling house (usual place of abode) within the state.
- #4 AFFIXING TO DOOR ☐ By affixing a true copy of each to the door of said premises, which is recipient's: [] actual place of business [] dwelling house (place of abode) within the state.
Deponent was unable, with due diligence to find recipient or a person of suitable age and discretion, having called thereat
on the day of at
on the day of at
on the day of at
on the day of at
Address confirmed by
- #5 MAIL COPY ☐ On, deponent completed service by depositing a true copy of each document to the above address in a 1st Class postpaid properly addressed envelope marked "Personal and Confidential" in an official depository under the exclusive care and custody of the United States Post Office in the State of New York.
- #6 DESCRIPTION ☒ A description of the Defendant, or other person served, or spoken to on behalf of the Defendant is as follows:
(use with #1, 2 or 3) Sex: Male Color of skin: White Color of hair: Brown Age: Over 65 Yrs. Height: 5'4" - 5'8"
Weight: 131 - 160 Lbs. Other Features:
- #7 WIT. FEES ☐ the authorized witness fee and / or traveling expenses were paid (tendered) to the recipient.
- #8 MILITARYSRVC ☒ Deponent asked person spoken to whether the recipient was presently in military service of the United States Government or of the State of New York and was informed that recipient was not. Recipient wore ordinary civilian clothes and no military uniform.
- #9 OTHER ☐

Sworn to before me on December 19, 2011



Guy Djahoue
Guy Djahoue

Server's Lic #

Invoice/Work Order 0944820

Exhibit 4

Exhibit 4



Support Services

COURT • PROCESS • MESSENGER

Web address: firstlegalsupport.com

Los Angeles (213) 250-1111
 Los Angeles (West) (310) 277-9111
 Inland Empire (951) 779-1110
 Sacramento (916) 444-5111
 San Diego (619) 231-9111
 San Francisco (415) 626-3111
 Santa Ana (714) 541-1110
 San Jose (408) 287-9711
 San Luis Obispo (805) 543-8919
 Ventura (805) 654-1535
 Las Vegas (702) 671-4002
 Phoenix (602) 248-9700

(213) 250-1111
 (310) 277-9111
 (951) 779-1110
 (916) 444-5111
 (619) 231-9111
 (415) 626-3111
 (714) 541-1110
 (408) 287-9711
 (805) 543-8919
 (805) 654-1535
 (702) 671-4002
 (602) 248-9700

Fax (213) 250-1197
 Fax (310) 277-9153
 Fax (951) 779-0100
 Fax (916) 443-3111
 Fax (619) 231-1361
 Fax (415) 626-1331
 Fax (714) 541-8182
 Fax (408) 287-5852
 Fax (805) 541-4450
 Fax (805) 654-1803
 Fax (702) 974-2223
 Fax (602) 248-9727

All offices
 independently
 owned and
 operated

FOR MESSENGER USE ONLY

DATE: 1/24/12

CTL#

CHARGE TO:		AUTHORIZATION / REQUESTED BY		FIRST SERVICES USE ONLY	
		SHERYL		DEL RT	
				ADVANCE FEES	
				WT / MIN	
		CHARGE REF.		LBS.	
		11453.198		COURT SERVICE	
PICK UP FROM:		DELIVER TO:		CHECK CHG.	
		WILLIAM COOPER 601 EAST BROADWAY LAS VEGAS 89101			
TO SEE:		TO SEE:			
PHONE:		PHONE: 877-671-4140			
<input type="checkbox"/> SPECIAL	<input checked="" type="checkbox"/> REGULAR (4 Hrs.)	<input type="checkbox"/> RETURN	Pieces	TOTAL	
<input type="checkbox"/> ASAP (1 Hr.)	<input type="checkbox"/> NEXT DAY (BY _____)	<input type="checkbox"/> NIGHT / WEEKEND SERVICE	Weight	FIRST LEGAL ADDITIONAL USE	
<input type="checkbox"/> RUSH (2 Hrs.)	<input type="checkbox"/> NFO		P/U Time		
SPECIAL INSTRUCTIONS DELIVER SUMMONS / COMPLAINT & GET ACCEPTABLE SIGNED. RETURN SIGNED ACCEPTANCE ON NEXT REGULAR RUN.					
LEGIBLE SIGNATURE		DEL TIME	DRIVER	CHECK NO.	AMOUNT
			1	1	1
			2	2	2

LIABILITY FOR LOSS OR DAMAGE TO ITEMS LIMITED TO \$250.00



MEMBER FIRM CALIFORNIA ASSOCIATION OF PHOTOCOPIERS AND PROCESS SERVERS
 NATIONAL ASSOCIATION OF PROFESSIONAL PROCESS SERVERS



1 **ASCR**

2 JAMES E SMYTH II

3 Nevada Bar No. 6506

4 LESLEY B. MILLER

5 Nevada Bar No. 7987

6 ANTHONY J. CELESTE

7 Nevada Bar No. 8776

8 KAEMPFER CROWELL RENSHAW

9 GRONAUER & FIORENTINO

10 8345 West Sunset Road, Suite 250

11 Las Vegas, Nevada 89113

12 Telephone: (702) 792-7000

13 Fax: (702) 796-7181

14 j Smyth@kcnvlaw.com

15 **Attorneys for Plaintiff**

16 DISTRICT COURT

17 CLARK COUNTY, NEVADA

18 GRAND CANAL SHOPS II, LLC, a Delaware
19 limited liability company,

Case No. A-11-651462-C
Dept. No. XIX

20 Plaintiff,

21 vs.

ACCEPTANCE OF SERVICE

22 RICCARDO IAVARONE; and DOES 1
23 through X, inclusive,

24 Defendant.

///

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///

///

///

///

KAEMPFER CROWELL RENSHAW
GRONAUER & FIORENTINO
8345 West Sunset Road
Suite 250
Las Vegas, Nevada 89113

1 The undersigned hereby accepts service of the Summons to Riccardo Iavarone and
2 Complaint on behalf of Defendant RICCARDO IAVARONE in the above-entitled action.

3 DATED this _____ day of January, 2012.

4 WILLIAM E. COOPER LAW OFFICES

5
6
7 BY: _____

8 WILLIAM E. COOPER, ESQ.
9 601 East Bridger Avenue
10 Las Vegas, Nevada 89101
11 *Attorneys for Defendant*
12
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21
22
23
24

KAMPTER CROWELL RENSCHAW
GROUVER & FLORENTINO
8345 West Sunset Road
Suite 250
Las Vegas, Nevada 89113

1 **SUMM**

JAMES E SMYTH II

2 Nevada Bar No. 6506

LESLEY B. MILLER

3 Nevada Bar No. 7987

ANTHONY J. CELESTE

4 Nevada Bar No. 8776

KAEMPFER CROWELL RENSHAW

5 GRONAUER & FIORENTINO

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6 Las Vegas, Nevada 89113

Telephone: (702) 792-7000

7 Fax: (702) 796-7181

jsmyth@kcnvlaw.com

8 *Attorneys for Plaintiff Grand Canal Shops II, LLC*

9
10 DISTRICT COURT

11 CLARK COUNTY, NEVADA

12 GRAND CANAL SHOPS II, LLC, a Delaware
limited liability company,

13 Plaintiff,

14 vs.

15 RICCARDO IAVARONE; and DOES I
through X, inclusive,

16 Defendant.

Case No. **A-11-651462-C**
Dept. No. **XIX**

SUMMONS TO RICCARDO IAVARONE

17
18 **SUMMONS - CIVIL**

19 NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU
20 WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS. READ
THE INFORMATION BELOW.

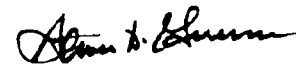
21 **RICCARDO IAVARONE**

22 TO THE DEFENDANT(S): A civil Complaint has been filed by the Plaintiff(s) against
23 you for the relief set forth in the Complaint.

- 24 1. If you intend to defend this lawsuit, within 20 days after this Summons is served
on you, exclusive of the day of service, you must do the following:

KAEMPFER CROWELL RENSHAW
GRONAUER & FIORENTINO
8345 West Sunset Road
Suite 250
Las Vegas, Nevada 89113

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11/09/2011 03:06:23 PM


CLERK OF THE COURT

1 **COMP**
2 JAMES E SMYTH II
3 Nevada Bar No. 6506
4 LESLEY B. MILLER
5 Nevada Bar No. 7987
6 ANTHONY J. CELESTE
7 Nevada Bar No. 8776
8 KAEMPFER CROWELL RENSHAW
9 GRONAUER & FIORENTINO
10 8345 West Sunset Road, Suite 250
11 Las Vegas, Nevada 89113
12 Telephone: (702) 792-7000
13 Fax: (702) 796-7181
14 jsmyth@kcnvlaw.com

15 *Attorneys for Plaintiff Grand Canal Shops II, LLC*

DISTRICT COURT
CLARK COUNTY, NEVADA

16 GRAND CANAL SHOPS II, LLC, a Delaware
17 limited liability company,

18 Plaintiff,

19 vs.

20 RICCARDO IAVARONE; and DOES 1
21 through X, inclusive,

22 Defendant.

Case No. A - 11 - 651462 - C
Dept. No. XIX

COMPLAINT

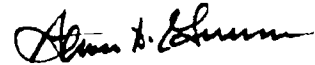
23 Plaintiff, GRAND CANAL SHOPS II, LLC ("Plaintiff"), by and through its attorneys,
24 Kaempfer Crowell Renshaw Gronauer & Fiorentino, for its Complaint against the above-named
25 Defendant, alleges as follows:

PARTIES

26 1. Plaintiff is, and at all times relevant herein was, a Foreign Limited-Liability
27 Company.

Kaempfer Crowell Renshaw
Gronauer & Fiorentino
8345 West Sunset Road
Suite 250
Las Vegas, Nevada 89113

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CLERK OF THE COURT

1 ASCR
JAMES E SMYTH II
2 Nevada Bar No. 6506
LESLEY B. MILLER
3 Nevada Bar No. 7987
ANTHONY J. CELESTE
4 Nevada Bar No. 8776
KAEMPFER CROWELL RENSHAW
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8345 West Sunset Road, Suite 250
6 Las Vegas, Nevada 89113
Telephone: (702) 792-7000
7 Fax: (702) 796-7181
jsmyth@kcnvlaw.com

8 **Attorneys for Plaintiff**

9
10 DISTRICT COURT

11 CLARK COUNTY, NEVADA

12 GRAND CANAL SHOPS II, LLC, a Delaware
limited liability company,

Case No. A-11-651462-C
Dept. No. XIX

13 Plaintiff,

14 vs.

ACCEPTANCE OF SERVICE

15 RICCARDO IAVARONE; and DOES I
through X, inclusive,

16 Defendant.
17

18 /././

19 /././

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21 /././

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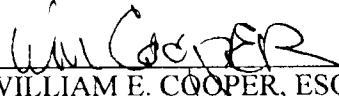
KAEMPFER CROWELL RENSHAW
GRONAUER & FIORENTINO
8345 West Sunset Road
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Las Vegas, Nevada 89113

1 The undersigned hereby accepts service of the Summons to Riccardo Iavarone and
2 Complaint on behalf of Defendant RICCARDO IAVARONE in the above-entitled action.

3 DATED this ____ day of January, 2012.

4 WILLIAM E. COOPER LAW OFFICES

5
6
7 BY:


WILLIAM E. COOPER, ESQ.
601 East Bridger Avenue
Las Vegas, Nevada 89101
Attorneys for Defendant

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